

**ORIGINAL****In the United States Court of Federal Claims**

No. 17-307

Filed: September 22, 2017

**FILED****SEP 22 2017****U.S. COURT OF  
FEDERAL CLAIMS**\*\*\*\*\*  
MICHAEL HADDAD,Plaintiff, *pro se*,

v.

THE UNITED STATES,

Defendant,

and

BAE SYSTEMS INFORMATION  
SOLUTIONS, INC., NCR GOVERNMENT  
SYSTEMS, LLC, TRANS DIGITAL  
TECHNOLOGIES, LLC and  
MORPHO TRUST USA, LLC,

Third-Party Defendants.

\* Issue Fee Payment,  
\* Patent Applicant,  
\* Patent Assignment,  
\* Patent Issue Date,  
\* Patent License,  
\* Patent Number,  
\* Show Cause Order.

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**MEMORANDUM OPINION AND SHOW CAUSE ORDER**

On December 29, 2009, the United States Patent and Trademark Office (“USPTO”) issued U.S. Pat. No. 7,639,844 (the “’844 Patent”) to Michael Haddad (“Plaintiff”), the sole inventor.

On March 6, 2017, Plaintiff filed a Complaint alleging that the Transportation Security Administration (“TSA”), a federal agency, infringed the ’844 Patent. ECF No. 1.

On July 5, 2017, the Government filed a Motion For Partial Dismissal, pursuant to Rules of the United States Court of Federal Claims (“RCFC”) 12(b)(1) and 12(b)(6). ECF No. 20. Therein the Government asserted that,

[a]lthough Mr. Haddad contends that he *now* holds all substantial rights in the ’844 Patent, the Complaint indicates that these rights were not assigned back to Mr. Haddad by Astornet until October 27, 2016. The Complaint is silent regarding when these rights were originally assigned to Astornet by Mr. Haddad.

ECF No. 20 at 5.

On July 18, 2017, Plaintiff filed a Reply to the Government's July 5, 2017 Motion. ECF No. 27. Exhibit A of Plaintiff's July 18, 2017 Reply included a letter, dated May 1, 2009 (the "Assignment Letter"), purporting to "appoint[] Astornet Technologies, Inc. as the exclusive licensee to pursue TSA opportunity [sic] for the CAT/BPSS." The Assignment Letter refers to Plaintiff as the "Owner of patent US7,639,844." Exhibit C of Plaintiff's July 18, 2017 Reply included a signed and notarized statement (the "Notarized Statement") executed by Plaintiff, in his personal capacity and in his capacity as "CEO/President" of Astornet Technologies, Inc., representing that "the exclusive license of Patent 7,639,844 . . . assigned from Mr. Michael Haddad, the inventor and owner of the 7,639,844 patent to Astornet Technologies, Inc., took place on May 1<sup>st</sup>, 2009[.]" The Notarized Statement also represents that "Mr. Michael Haddad certify [sic] that as per the record, that he signed a letter dated 5/1/2009 granting Astornet Technologies, Inc. a license[.]" Therein, Plaintiff twice affirmed the date of the Assignment Letter as May 1, 2009.

The USPTO, however, assigns patent numbers "after the issue fee has been paid."<sup>1</sup> The issue fee for the '844 Patent was paid on November 9, 2009.<sup>2</sup> Therefore, Plaintiff could not have known the patent number of the '844 Patent, *i.e.*, 7,639,844, prior to November 9, 2009. As such, the Assignment Letter's designation of Plaintiff as the "Owner of patent US7,639,844" is facially inconsistent, *i.e.*, the Assignment Letter is dated May 1, 2009, more than six months before the '844 Patent would have been assigned its patent number.

For these reasons, Plaintiff is ordered to file a response on, or before, October 20, 2017, explaining how Plaintiff knew the patent number of the '844 Patent on May 1, 2009, the date of the Assignment Letter. If a response is not filed by that time, the court will dismiss the above-captioned case, pursuant to RCFC 41(b), with prejudice.

**IT IS SO ORDERED.**



SUSAN G. BRADEN  
Chief Judge

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<sup>1</sup> *Patent Process Overview*, UNITED STATES PATENT AND TRADEMARK OFFICE, <https://www.uspto.gov/patents-getting-started/patent-process-overview#step7> (last visited September 21, 2017) ("The notice of allowance will list the issue fee and may also include the publication fee that must be paid prior to the Patent being issued. . . . A patent number and issue date will be assigned to an application and an Issue Notification will be mailed after the issue fee has been paid and processed by the USPTO.").

<sup>2</sup> See "Issue Fee Payment (PTO-85B)" dated November 9, 2009 within the "Image File Wrapper" of the '844 Patent, UNITED STATES PATENT AND TRADEMARK OFFICE: PATENT APPLICATION INFORMATION RETRIEVAL, <https://portal.uspto.gov/pair/PublicPair> (select "Patent Number" and search "7639844"; then select "Image File Wrapper").